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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/729,644

12/05/2003

Paul Marinier

I-2-0430.1US

1132

24374

7590

09/18/2006

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UNITED PLAZA, SUITE 1600  
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EXAMINER

LY, NGHI H

ART UNIT

PAPER NUMBER

2617

DATE MAILED: 09/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/729,644

Applicant(s)

MARINIER, PAUL

Examiner

Nghi H. Ly

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-13 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>05/15/06</u> . | 6) <input type="checkbox"/> Other: _____  |

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The Art Unit location of your application in the USPTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Art Unit 2617.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/22/06 has been entered.

### ***Response to Arguments***

2. Applicant's arguments with respect to claims 14-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

a. Claim 14 recites the limitation "the number of instances" in line 12. There is insufficient antecedent basis for this limitation in the claim.

b. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 14, line 12, recites the limitation "the number of instances". Therefore, it is not clear to the examiner what "the number of instances" is.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 14, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (US 2003/0060976A1) in view of Stewart (US 6,546,257).

Regarding claim 14, Sato teaches a wireless transmit/receive unit (WTRU) (see fig.1, unit A or B) for participating in cooperative positioning (see Abstract and [0028]) comprising: a receiver configured to receive positioning information regarding a selected target-WTRU and to receive signals from the selected target-WTRU (see Abstract and [0028]), a processor (see fig.2, system controller 21 or see fig.4, system controller 41) configured to perform position measurements regarding the selected target-WTRU based on the received requests for positioning information and the signals received from the selected target-WTRU for purposes of performing the position measurements (see Abstract and [0028]).

Sato does not specifically disclose a receiver configured to receive requests for positioning information from a wireless network base station, a transmitter configured to transmit results of position measurements as positioning information to the wireless network base station and a memory for storing the number of instances where positioning information is provided for account credit verification.

Stewart teaches a receiver configured to receive requests for positioning information from a wireless network base station (see column 8, lines 63-67), a transmitter configured to transmit results of position measurements as positioning information to the wireless network base station (see column 8, lines 63-67) and a memory for storing the number of instances where positioning information is provided for account credit verification (see column 8, lines 27-39 and column 12, lines 7-12).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Stewart into the system of Sato in order to provide geographically relevant promotional information to a predetermined location associated with a mobile (see Stewart, column 1, line 65 to column 2, line 2).

Regarding claim 16, the Sato further teaches a display for displaying the number of instances where positioning information is provided to the system (see fig.2, item 14, or fig.4, item 34).

Regarding claim 17, the combination of Sato and Stewart further teaches the request for positioning information is broadcast and includes the spreading code of the selected target-WTRU (see Stewart, column 5, lines 3-7).

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6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (US 2003/0060976A1) in view of Stewart (US 6,546,257) and further in view of Robert (US 6,169,497).

Regarding claim 15, the combination of Sato and Stewart teaches claim 14. The combination of Sato and Stewart does not specifically disclose a switch for enabling and disabling the ability of the WTRU to respond to positioning requests received from the system.

Robert teaches a switch for enabling and disabling the ability of the WTRU to respond to positioning requests received from the system (see column 2, lines 4-23).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the teaching of Robert into the system of Sato and Stewart so that the user can select the transmission of an activation or initial signal from a portable control unit to the target to initiate broadcast of the communication signal (see Robert, column 2, lines 18-21).

7. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato (US 2003/0060976A1) in view of Stewart (US 6,546,257) and further in view of Official notice.

Regarding claim 18, the combination of Sato and Stewart teaches claim 14. The combination of Sato and Stewart does not specifically disclose the WTRU has determined its own position with a degree of confidence that is above a predetermined

value. However, the examiner takes Office notice such feature as recited in very well known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Sato and Stewart for providing a method as claimed, for determining the position of the WTRU.

Regarding claim 19, the combination of Sato and Stewart teaches claim 14. The combination of Sato and Stewart does not specifically disclose the positioning information accepted by the wireless network base station is limited to positioning information with a degree of confidence above a predetermined level. However, the examiner takes Office notice such feature as recited in very well known in the art.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Sato and Stewart for providing a method as claimed, for determining the position of the WTRU.

### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nghi H. Ly whose telephone number is (571) 272-7911. The examiner can normally be reached on 8:30 am-5:30 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Corsaro can be reached on (571) 272-7876. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Nghi H. Ly

A handwritten signature in black ink, appearing to read 'Nghi H. Ly', located below the printed name.